

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney
JOANN M. SWANSON (CSBN 88143)
Chief, Civil Division
MELANIE L. PROCTOR (CSBN 228971)
Melanie.Proctor@usdoj.gov
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
Telephone: (415) 436-6730
FAX: (415) 436-7169

Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WEIMING JIANG,)	No. C 08-0332 SI
)	
Plaintiff,)	
)	
v.)	
)	
MICHAEL CHERTOFF, Secretary of the)	JOINT CASE MANAGEMENT
Department of Homeland Security;)	STATEMENT; PROPOSED ORDER
ROBERT S. MUELLER III, Director of the)	
Federal Bureau of Investigation,)	Date: April 25, 2008
)	Time: 2:00 p.m.
Defendants.)	Crtrm: 10, 19th Floor

1. Jurisdiction and Service: Plaintiff brought this Complaint under 28 U.S.C. §§ 1331, 1361 and 2201, and 5 U.S.C. § 701 et seq., the Administrative Procedure Act. All parties have been served. Defendants argue that the Court lacks subject matter jurisdiction.

2. Facts: On June 27, 2006, Plaintiff applied for naturalization. Plaintiff's name check is still pending with the Federal Bureau of Investigation; accordingly, he has not yet been interviewed. On January 17, 2008, Plaintiff filed the instant Complaint.

3. Legal Issues: Defendants argue that the Court lacks jurisdiction over the subject matter of this action, and that Plaintiff has failed to state a claim upon which relief may be granted. Plaintiff asks the Court to determine whether the delay at issue is unreasonable.

///

1 4. Motions:

2 a. Plaintiff's Motion for Summary Judgment

3 On March 13, 2008, Plaintiff moved for summary judgment. On March 18, 2008,
4 Defendants requested the Court to hold Plaintiff's motion for summary judgment in abeyance
5 pending a decision on their anticipated motion to dismiss. The Court has granted that request.

6 b. Defendants' Motion to Dismiss

7 On March 21, 2008, Defendants moved to dismiss the Complaint for lack of subject
8 matter jurisdiction. Plaintiff opposed the motion, and Defendants have replied to that opposition.
9 Argument will be heard on April 25, 2008.

10 5. Amendment of Pleadings: None.

11 6. Evidence Preservation: None.

12 7. Disclosures: The parties agree that this Court's review will be confined to the
13 administrative record and therefore this proceeding is exempt from the initial disclosure
14 requirements under Fed. R. Civ. P. 26.

15 8. Discovery: There has been no discovery to date and the parties believe this matter
16 can be resolved without discovery. No experts will be designated.

17 9. Class Actions: Not applicable.

18 10. Related Cases: None.

19 11. Relief: Plaintiff asks that the Court compel Defendants to adjudicate his application
20 for naturalization, and asks for an award of attorneys' fees. This case does not involve damages.

21 12. Settlement and ADR: The Court granted the parties' Joint Request to Be Exempt
22 From Formal ADR on April 14, 2008.

23 13. Consent to Magistrate Judge for All Purposes: The parties do not consent to assignment
24 of this case to a United States Magistrate Judge.

25 14. Other References: None.

26 15. Narrowing of Issues: None.

27 16. Expedited Schedule: The parties believe this matter can be solved through the motions.

28 17. Scheduling: If the Court denies Defendants' Motion to Dismiss, within thirty (30) days

1 of that order, Defendants will file an opposition and cross motion to Plaintiff's stayed motion for
2 summary judgment, and notice a hearing date in accordance with the local rules.

3 18. Trial: None.

4 19. Disclosure of Non-party Interested Entities or Persons: None.

5 20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this
6 matter: None.

7 Dated: April 18, 2008

Respectfully submitted,

8 JOSEPH P. RUSSONIELLO
9 United States Attorney

10 /s/
11 MELANIE L. PROCTOR¹
12 Assistant United States Attorney
Attorneys for Defendants


13 Dated: April 18, 2008

14 /s/
15 JUSTIN WANG
16 Attorney for Plaintiff

17 **ORDER**

18 Pursuant to stipulation, IT IS SO ORDERED. The Joint Case Management Statement and
19 Proposed Order are hereby adopted by the Court as the Case Management Order for the case.

20 Date:

21 
22 SUSAN ILLSTON
23 United States District Judge
24
25
26
27

28 ¹I, Melanie L. Proctor, hereby attest that I have on file all holograph signatures for any
signatures indicated by a "conformed" signature (/S/) within this efiled document.